



**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**

May 5, 2021

Via Emailed PDF

Martin P. Sullivan
Sullivan & Barros, LLP
msullivan@sullivanbarros.com

Re: Determination Letter for 418 M St., NW (Square 514, Lot 84).

Dear Mr. Sullivan:

This letter confirms the conversation you had with my staff on April 2, 2021, regarding a proposed project located at 418 M St., NW (Square 514, Lot 84) (the "Subject Property"). The Subject Property is currently improved with a single-family row building (the "Principal Building") and a rear two-story accessory building (the "Accessory Building"). The Subject Property is located in the RA-2 Zone.

You have stated that you have no intention to expand either the Principal Building or the Accessory Building, but you do intend to use Principal Building for a Principal Dwelling Unit, as well as the Accessory Building, and you would like to add a stairway penthouse on the roof of the Principal Building (the "Project").

Penthouse

Pursuant to F § 303.2, the height of a penthouse in the RA-2 Zone is limited to twelve feet (12 ft.) in height and one (1) story. As currently interpreted, an additional 0.4 FAR is available for habitable penthouse space, with a payment to the Housing Production Trust Fund, subject to applicable penthouse setback requirements. Pursuant to C § 1502, the Penthouse must be set back at a distance equal to its height from the front roof edge and the rear roof edge. As this is a row structure adjoining both adjacent buildings, and because both adjacent buildings are contributing structures in the Historic District, a 1:1 setback on the sides of the building will be required only if the adjacent building is built to a lower height than the subject Principal Building. You have stated that you believe that the adjacent building to the right is lower in height, therefore requiring a 1:1 setback from that edge. You have stated that the adjacent building to the left appears to be of equal or higher height. If that is the case, then you would not be required to have any penthouse setback from that side.

No Parking Space Required in the Accessory Building

The Subject Property includes a two-story accessory building (the "Accessory Building") which appears to be safely considered a contributing resource in this Historic District. The principal building, and presumably the accessory building, was built in 1886, pursuant to HistoryQuestDC. You have provided photos of the Accessory Building, which include the adjoining historic accessory building (Exhibit A). The two accessory buildings share decorative brick arch features near the top of the first story of the respective building facades. On the adjoining building, these features align with original openings in the building, which are clearly not openings large enough for parking a car within. The arches on the 418 M Accessory Building do not have similar openings beneath them. Rather, the historic façade has clearly been altered in recent times with metal doors, including one standard size pedestrian door, and one "shed" or storage space - type roll-up door. Based on the appearance of that altered façade, and the existence of the informative brick arches, each of which is no bigger than a standard door or window size, I have determined that the Accessory Building very likely did not originally include a parking space. This is further affirmed by the age of the Subject Building, being constructed in 1886, before automobiles existed.

In addition to this analysis, you have provided an affidavit from the current owner of the Subject Property (attached as Exhibit B), which provides relevant information in this regard. The property owner, in his affidavit, has stated that he altered the property in 2001 by creating an opening in the façade of the Accessory Building to allow for a parking space, and that prior to this work, there was no opening for an automobile.

For these reasons, I have determined that the parking space was not originally provided, and was not present prior to 1958. Therefore, it is not required that this opening, and the façade may be restored to its previous configuration, subject to approval by the Historic Preservation Office.

Use of Carriage House

You have asked me to confirm a previous determination made in an email to you dated February 17, 2021 (attached as Exhibit C), in which my office confirmed that a habitable dwelling is permitted in the Accessory Building, without reference to the width of the existing alley or the distance of the Accessory Building, through the alley system, to the nearest public street.

As stated in the email, there is no prohibition from having a habitable dwelling in an accessory building in the RA-2 zone, based on alley widths and distances to a public street. This requirement is limited to the R and RF zones, but there is no similar provision in the RA zone Zoning Regulations. Therefore, regardless of the measured alley width behind the Accessory Building, or that building's distance through the alley to a public street, you may use the Accessory Building for a Principal Dwelling Unit.

Height of Accessory Building

In the RA-2, zone, the maximum permitted height for an accessory building is twenty feet (20 ft.) and two (2) stories. In contrast to the R and RF zones, this height restriction does not include the penthouse. Therefore, any penthouse provided, and any parapets, do not count against the 20 feet maximum.

Please feel free to contact me if you have any questions.

Sincerely, Matthew Le Grant
Matthew Le Grant
Zoning Administrator

Attachments: Exhibit A – Photos
Exhibit B- Affidavit
Exhibit C- Email Determination

Reviewer: Ramon Washington

DISCLAIMER: This letter is issued in reliance upon, and therefore limited to, the questions asked, and the documents submitted in support of the request for a determination. The determinations reached in this letter are made based on the information supplied, and the laws, regulations, and policy in effect as of the date of this letter. Changes in the applicable laws, regulations, or policy, or new information or evidence, may result in a different determination. This letter is **NOT** a "final writing", as used in Section Y-302.5 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations), nor a final decision of the Zoning Administrator that may be appealed under Section Y-302.1 of the Zoning Regulations, but instead is an advisory statement of how the Zoning Administrator would rule on an application if reviewed as of the date of this letter based on the information submitted for the Zoning Administrator's review. Therefore this letter does **NOT** vest an application for zoning or other DCRA approval process (including any vesting provisions established under the Zoning Regulations unless specified otherwise therein), which may only occur as part of the review of an application submitted to DCRA.